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EXAMINER

VORTMAN, ANATOLY

ART UNIT

PAPER NUMBER

2835

DATE MAILED: 01/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.

09/837,183

Applicant(s)

SELLERS, CHARLES A.

Examiner

Anatoly Vortman

Art Unit

2835

Office Action Summary*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --***Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133)
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b)

Status

1) Responsive to communication(s) filed on 12/30/02.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-21 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-21 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 18 April 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____

4) Interview Summary (PTO-413) Paper No(s) _____

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____

DETAILED ACTION

Amendments

1. By amendment filed on 12/30/02 (paper # 3), the Applicant has amended independent claims 1, 10, and 17. Claims 1-21 are pending in the instant application.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-21, are rejected under 35 U.S.C. 102(b) as being anticipated by US/4,781,422 to Kimble.

Regarding claims 1, 2, and 8, Kimble disclosed (Fig. 1-3) a computer system (10), comprising:

a base (11); a display enclosure (14-16) housing a display (13); and a securing mechanism (17, 18) to pivotably secure the display enclosure (14-16) to the base (11). comprising:

a positioning assembly (29) that produces a frictional force to prevent the display enclosure (14) from pivoting; and a selectively and mechanically actuated operator (75, 85), the

operator (75, 85) being operable to remove at least a portion of the force preventing the display enclosure (14-16) from pivoting.

Regarding claims 10 and 14, Kimble disclosed (Fig. 1-3) a clutch assembly (29) for pivotably securing a computer display (14-16) to a computer base (11), comprising:

a first portion (16, 54, 55) to enable the computer display (14) to pivot relative to the computer base unit (11); a second portion (34, 36) to produce a force to oppose pivotal motion of the display (14); and a manually and mechanically actuatable third portion (75) operable to prevent the second portion (34, 36) from opposing pivotal motion of the display (14).

Regarding claim 3, Kimble disclosed that said securing mechanism (18) comprises a first member (55) secured to the display enclosure (14-16), a second member (34) secured to the base (11), and a force producer (80) to drive the first and second members into contact.

Regarding claims 4, 7, and 11, the functional recitation of claim 4 that said "operator prevents the force producer from driving the first and second members into contact", the functional recitation of claim 7 that said "operator is electrically actuated", and the functional recitation of claim 11, that said "third portion is electrically operated" has not been given patentable weight because these recitations are narrative in form. In order to be given patentable weight, a functional recitation must be expressed as a "means" for performing the specified function, as set forth in 35 USC § 112, 6th paragraph, and must be supported by recitation in the claim of **sufficient structure** to warrant the presence of the functional language. *In re Fuller*, 1929 C.D. 172; 388 O.G. 279.

Regarding claims 5 and 6, Kimble disclosed that said operator (75, 85) comprises an actuator (85) disposed on the display enclosure (14-16) to enable a user to control the operator (75).

Regarding claim 9, Kimble disclosed that said device (10) is a portable computer (column 1, lines 1+), therefore it inherently comprises a processor.

Regarding claims 12 and 13, Kimble disclosed a biased (by spring (80) fourth portion (85), the fourth portion (85) being manually operable. The functional recitation of claim 12 "to control electrical power to the third portion" and the functional recitation of claim 13 "so as to not supply electrical power to the third portion" has not been given patentable weight because these recitation are narrative in form. In order to be given patentable weight, a functional recitation must be expressed as a "means" for performing the specified function, as set forth in 35 USC § 112, 6th paragraph, and must be supported by recitation in the claim of **sufficient structure** to warrant the presence of the functional language. *In re Fuller*, 1929 C.D. 172; 388 O.G. 279.

Regarding claims 15 and 16, Kimble disclosed a biased (by spring (80)) fourth portion (85), the fourth portion (85) being manually operable to mechanically operate the third portion (75), wherein the third portion (75) does not prevent the second portion (34, 36) from opposing pivotal motion of the display (14).

Regarding claims 17-21, the method steps recited in the claims are necessitated by the device structure as disclosed by Kimble.

Response to Arguments

4. Applicant's arguments filed on 12/30/02 have been fully considered but they are not persuasive.

Contrary to the Applicant's position, the Examiner believes that element (75, 85) of Kimble is a selectively and manually (mechanically) operated actuator. Kimble disclosed an adjustable clutch, wherein the friction within said clutch may be manually (mechanically) and selectively adjusted (column 2, lines 13+) by a user by tightening or untightening of said actuator (75, 85). Please note, that said actuator is exposed to the outside of the device so it can be easily accessed by the user (as depicted on Fig. 2 of Kimble).

Also, the Applicant's position that operator (75, 85) is not mechanically but only manually actuated is believed to be in error, since manual actuation is a broad term and may include any type of actuation, e.g., mechanical, electrical, optical, etc. Please note, that the user actuates the aforementioned operator by application of the mechanical force (tightening or untightening), thus it's actuated mechanically. Indeed, following the Applicant's reasoning, one would arrive to an erroneous conclusion, that for example a stick shift of a car is not mechanically actuated, but only manually.

Furthermore, the Applicant contradicts his own reasoning, since claim 10 recites "a third portion manually actuatable" and dependent claim 14 recites that said "third portion is mechanically operated".

In conclusion, the Applicant's arguments regarding functional recitations in the claims are not persuasive. The Examiner has considered all of the functional recitations of the dependent claims in light of the parent claims, but still believes that additional new features

described by said functional recitations have not been supported by the recitation in the claims of sufficient structure to support the claimed functions.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anatoly Vortman whose telephone number is 703-308-7824. The examiner can normally be reached on 9:30-6:00, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Darren Schuberg can be reached on 703-308-4815. The fax phone numbers for

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the organization where this application or proceeding is assigned are 703-305-3431 for regular communications and 703-305-3432 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.

Anatoly Vortman
Primary Examiner
Art Unit 2835

A.V.
January 27, 2003

A handwritten signature in black ink, appearing to read "A. Vortman".